

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 4910R
Rush Holt for Congress, Inc. and Pamela H.)
Mount, as Treasurer)

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Tom Blomquist. The Federal Election Commission ("Commission") found reason to believe that Rush Holt for Congress, Inc. and its treasurer ("Respondents") violated 2 U.S.C. §§ 434(a)(6)(A) and 441a(f) and 11 C.F.R. § 104.8(d) in 1998 and 1999.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:¹

¹ All of the facts recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended (the "Act"), herein are to the Act as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002

1. Rush Holt was the Democratic candidate for the House of Representatives from the 12th District of New Jersey (Primary and General) in 1998.

2. Rush Holt for Congress, Inc. ("the Committee") is a political committee within the meaning of 2 U.S.C. § 431(4) and was the principal campaign committee of Rush Holt in connection with the 1998 Congressional campaign. See 2 U.S.C. § 432(e)(1).

3. Pamela H. Mount is the current treasurer of Rush Holt for Congress, Inc.; Edmund W. Stiles was treasurer in 1998 and 1999.

4. The Federal Election Campaign Act of 1971 as amended, ("the Act") requires that the principal campaign committee of a candidate notify the Secretary of the Commission and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. 2 U.S.C. § 434(a)(6)(A). The notification must be made within 48 hours after the receipt of such contribution and must include the name of the candidate and the office sought by the candidate, the identification of the contributor and the date of receipt and amount of the contribution. 2 U.S.C. § 434(a)(6)(A). The notification shall be made in addition to the reporting of these contributions on the post-election report. 11 C.F.R. § 104.5(f).

5. The Committee was required to file 48-Hour Contribution/Loan Notices for contributions of \$1,000 or more received after the close of books for the 12 Day Pre-Primary Report, during the period from May 14, 1998 through May 30, 1998. See 2 U.S.C. § 434(a)(6)(A). During this time period, the Committee failed to file 48-Hour Notices of Contributions for six (6) contributions totaling \$6,000 and filed seven (7) late 48-Hour Notices of

Contributions for contributions totaling \$7,000. All of these contributions were ultimately reported in the Committee's 1998 July Quarterly Report.

Respondents contend that the failure to file and the late filing of these 48-Hour Notices were the result of the campaign being a first-time Congressional campaign and the fact that the finance director employed during the pre-primary period was inexperienced and entirely unaware of the requirement to file 48-Hour Notices. Respondents also contend that once the finance director became aware of the requirement to file 48-Hour Notices, he filed seven (7) late 48-Hour Notices for contributions totaling \$7,000.

6. The Committee was required to file 48-Hour Contribution/Loan Notices for contributions of \$1,000 or more received after the close of books for the 12 Day Pre-General Report, during the period from October 15, 1998 through October 31, 1998. See 2 U.S.C. § 434(a)(6)(A). During this time period, the Committee failed to file 48-Hour Notices of Contributions for 12 contributions totaling \$13,500 and filed 17 late 48-Hour Notices of Contributions for contributions totaling \$24,000. All of these contributions were ultimately reported in the Committee's 1998 30 Day Post-General Report.

Respondents contend that the failure to file and the late filing of these 48-Hour Notices were the result of employing a new finance director who was inexperienced and not immediately aware of the requirement to file 48-Hour Notices. Respondents assert that once the finance director became aware of the requirement, the Committee filed at least 20 timely 48-Hour Notices. Respondents also contend that the finance director mistakenly thought that the 48-Hour Notices had to be filed within two business days rather than within 48 hours.

7. The Act states that no person shall make a contribution to any candidate and his authorized committee with respect to any Federal election which, in the aggregate, exceeds

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\$1,000. See 2 U.S.C. § 441a(a)(1). The Act also prohibits candidates and committees from knowingly accepting contributions that exceed the limit. See 2 U.S.C. § 441a(f). Pursuant to Section 431(8) of the Act, the term "contribution" includes a gift, subscription, loan (except a loan made in accordance with 11 C.F.R. § 100.7(b)(11)), advance or deposit of money or anything of value made by any person for the purpose of influencing any election to Federal office.

8. When a committee receives an excessive contribution, the committee must either refund the excessive portion of the contribution or the contributor must provide the committee with a redesignation or reattribution, both within 60 days after receipt of the contribution.

11 C.F.R. § 103.3(b)(3). The regulations in effect in 1998 provided that a contribution is properly redesignated if, within the 60-day period, the contributor provides the committee with a written, signed statement redesignating the contribution for a different election, 11 C.F.R. § 110.1(b)(5)(ii)(B), and a contribution is properly reattributed if, within the 60-day period, the contributors provide the committee with a written statement reattributing the contribution.

11 C.F.R. § 110.1(k). The 1998 regulations also required the statement to be signed by all contributors and to indicate the amount attributable to each donor. *Id.* If the contributors did not specify how to divide the contribution, the committee was required to attribute the contribution equally among the contributors. *Id.*

The Committee received 10 contributions exceeding the contributions limits by \$5,600.

9. If a contribution is redesignated by a contributor in accordance with 11 C.F.R. § 110.1(b) or 110.2(b), the treasurer of the authorized political committee receiving the contribution must report the redesignation in a memo entry on Schedule A of the report covering the reporting period in which the redesignation is received. 11 C.F.R. § 104.8. The memo entry

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for each redesignated contribution must be reported in the following manner: the first part of the memo entry must disclose all the information for the contribution as it was originally reported on Schedule A; the second part of the memo entry must disclose all of the information for the contribution as it was redesignated by the contributor, including the election for which the contribution was redesignated and the date on which the redesignation was received. *Id.*

10. If an itemized contribution is reattributed by the contributor(s) in accordance with 11 C.F.R. § 110.1(k), the treasurer must report the reattribution in a memo entry on Schedule A of the report covering the reporting period in which the reattribution is received. *Id.* The memo entry for each reattributed contribution must be reported in the following manner: the first part of the memo entry shall disclose all of the information for the contribution as it was originally reported on Schedule A; the second part of the memo entry must disclose all the information for the contribution as it was reattributed by the contributors, including the date on which the reattribution was received. If a contribution is refunded to the contributor, the treasurer of the political committee making the refund must report the refund on Schedule B of the report covering the reporting period in which the refund is made, in accordance with 11 C.F.R. §§ 103.3(b)(5) and 104.3(b). *Id.*

11. The Committee attempted corrective action by either refunding the contribution or excessive portion of the contribution or obtaining written redesignations or reattributions from the contributors with the exception of the October 13, 1998, \$500 contribution from Sally Schroeder; however, the refunds, redesignations and reattributions did not occur within the required 60-day time period. See 11 C.F.R. §§ 103.3(b)(3), 110.1(b)(5)(ii)(B) and 110.1(k). If the redesignations or reattributions could not be obtained within 60 days after receipt of the contribution, the Committee should have refunded the contributions. See 11 C.F.R.

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§ 103.3(b)(3). Several refunds, redesignations and reattributions for contributions that exceeded contribution limits were not reported in the correct report and although reported, some redesignations and reattributions were not reported on Schedule A in the manner required by 11 C.F.R. § 104.8(d).

Respondents contend that the Committee demonstrated good faith intent to comply with the law and attempted corrective action with respect to these contributions prior to the Commission's reason-to-believe findings. With respect to the \$500 contribution made by Sally Schroeder, respondents contend that it was not refunded, but instead, was attributed to the contributor's husband without the documentation required by the 1998 regulations.

V. Respondents accepted 10 contributions exceeding the contribution limits by \$5,600, in violation of 2 U.S.C. § 441a(f). Respondents failed to file 48-Hour Notices of Contributions for 18 contributions totaling \$19,500 and filed late 48-Hour Notices of Contributions for 24 contributions totaling \$31,000 in violation of 2 U.S.C. § 434(a)(6)(A). Respondents failed to properly report several refunds, reattributions and redesignations in violation of 11 C.F.R. 104.8(d). Respondents will cease and desist from violating 2 U.S.C. §§ 434(a)(6)(A) and 441a(f) and 11 C.F.R. § 104.8(d).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of eight thousand and five hundred dollars (\$8,500), pursuant to 2 U.S.C. § 437g(a)(5)(A). Respondents will refund the October 13, 1998, \$500 contribution made by Sally Schroeder and report the making of such refund.

Respondents contend that having identified the cause of the errors made, the Committee has taken steps to prevent such errors from reoccurring in the future.

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The Committee will work with the Reports Analysis Division to amend its reports to accurately disclose the refunds, redesignations and reattribution of contributions that were inaccurately disclosed. The Committee treasurer and all Committee staff responsible for preparing and filing the Committee's disclosure reports will enroll in and attend a Commission-sponsored educational conference for Congressional committees. Committee staff attendance at such conference within 12 months of the execution of this agreement shall be deemed sufficient to comply with this requirement.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. With the exception of the requirements in Paragraph VI of this agreement that the Committee treasurer and its staff attend a Commission-sponsored educational conference, Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement

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shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY: Rhonda J. Vosdingh
Rhonda J. Vosdingh
Associate General Counsel
for Enforcement

5/23/03
Date

FOR THE RESPONDENTS:

Barbara Trelstad
Barbara Trelstad
Assistant Treasurer

14 May 2003
Date

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